

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6658**

**BILL NUMBER:** SB 227

**NOTE PREPARED:** Feb 27, 2008

**BILL AMENDED:** Feb 26, 2008

**SUBJECT:** Sexual Assault Victim Advocate Standards Board.

**FIRST AUTHOR:** Sen. Becker

**FIRST SPONSOR:** Rep. L. Lawson

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill renames the "Sexual Assault Victim Standards and Certification Board" as the "Sexual Assault Victim Advocate Standards and Certification Board", and moves control of the Board to the Criminal Justice Institute from the Department of Workforce Development. It moves the Sexual Assault Victims Assistance Account and all balances and encumbrances to the Criminal Justice Institute from the Department of Workforce Development.

The bill removes the Executive Director of the Commission for Women from membership on the Commission, and adds representatives of the Office of Family and Social Services and State Department of Health as members. It also makes conforming changes.

This bill repeals the sexual assault victim standards law.

This bill also provides that victim advocates and victim services providers may not give testimony, produce records, or disclose certain confidential communications and confidential information without the victim's consent. The bill provides that a victim may not be forced to consent to the disclosure of confidential information in order to receive counseling or advocacy services. It requires a victim to be notified if confidential information is disclosed.

It also makes certain information obtained as part of an application for certain gaming licenses, confidential. The bill allows a court to prohibit a defendant from contacting an individual if the defendant has not been released from lawful detention.

The bill permits a court to require that as a part of a person's executed sentence, the person shall refrain from

contact with an individual. It makes it a Class A misdemeanor if a person violates an order to refrain from contacting an individual if the person has not been released from lawful detention or as a condition of an executed sentence.

**Effective Date:** Upon passage; July 1, 2008.

**Explanation of State Expenditures:** This bill moves control of the Board from the Department of Workforce Development (DWD) to the Criminal Justice Institute (CJI). This provision will decrease the workload in DWD and will increase the workload of CJI. This transfer of control should have no net effect on state expenditures as a result of an even transfer of workload.

The bill also affects dedicated funds by transferring the Sexual Assault Victims Assistance Account from DWD to CJI. All balances and obligations of the original account are also transferred to the new account established in the General Fund. Funds in the account are to be distributed to a statewide nonprofit sexual assault coalition designated by the federal Center for Disease Control and Prevention (CDC). In both current law and in the legislation, the costs of administering the account are provided by funds in the account and will have no fiscal impact associated with its transfer.

The bill also adds a member to the Board. Currently, there are 10 members of the Board that serve in addition to the Executive Director of the Commission for Women, who serves as chairperson. The bill removes the Executive Director of the Commission for Women from the Board as well as serving as sole chairperson. The legislation provides for two new board members that will serve on the 12-member panel; one of whom replaces the Executive Director of the Commission for Women. These two board positions are to be filled by an employee of the Family and Social Services Administration (FSSA) and an employee of the State Department of Health's Office of Women's Health. The legislation does not allow for Board members to receive a per diem salary, but allows reimbursement of travel expenses. Adding a member to the Board may increase state expenditures for mileage reimbursement for board members. This increase is likely to be small.

The legislation requires the Board to develop standards for certification as a sexual assault victim advocate, set fees that will cover the costs of the certification process, administer the Sexual Assault Victims Assistance Account, and certify sexual assault victim advocates. Currently, the Board has been working toward developing certification standards but has yet to establish certification fees to cover the costs of the certification process.

*Victim Contact:* This bill requires defendants to refrain from having contact with their victims. Contacting a victim is considered an invasion of privacy, which is either a Class A misdemeanor or a Class D felony. The Department of Correction (DOC) reports that currently, a victim can request the court to forbid the defendant from contacting them. DOC does not monitor inmate communication, but if a victim that has requested no contact reports that an offender has contacted them, DOC assesses administrative penalties against the offending individual.

*Penalty Provision:* State expenditures may increase to the extent that individuals (1) commit felony invasion of privacy offenses defined in the legislation, (2) require new trials, and (3) are found guilty, thus extending their sentences. Invasion of privacy offenses can be classified as either a Class D felony or a Class A misdemeanor. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for

medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

**Background Information:** The Indiana Commission for Women reports that in FY 2007, \$20,000 of funding allotted to DWD was used for the operations of the Board. The Victim's Assistance Account is inaccessible to the Board and is currently designated for disbursement to a particular nonprofit sexual assault coalition for their operations. In FY 2007, the account had approximately \$50,000 that was provided to the Indiana Coalition Against Sexual Assault. The account balance averages about \$35,000 to \$50,000 a year before being disbursed to a nonprofit sexual assault coalition.

Currently, there are no per diem payments made to Board members, but mileage reimbursement is provided. The Board met a total of 10 times during CY 2007, primarily for determining certification standards. The Indiana Commission for Women reports that the high number of meetings will likely not be duplicated in the upcoming years. There are 8 board meetings anticipated in the coming year.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision:* Local expenditures may increase to the extent that individuals (1) commit felony invasion of privacy offenses defined in the legislation, (2) require new trials, and (3) are found guilty, thus extending their sentences. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Penalty Provision:* Local revenue will increase to the extent that individuals commit misdemeanor invasion of privacy offenses defined in the legislation and require a new trial. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** DWD, CJI, Indiana Commission for Women, Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies. Trial courts, local law enforcement agencies.

**Information Sources:** Sharon Langlotz, Indiana Commission for Women; Mike Barnhart, Department of

Workforce Development; Indiana Sheriffs' Association; Tim Brown, Department of Correction.

**Fiscal Analyst:** Bill Brumbach, 232-9559.